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**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

In re  
ACACIA MEDIA TECHNOLOGIES  
CORPORATION

) Case No. 05 CV 01114 JW  
) MDL No. 1665  
)  
) **[PROPOSED] ORDER GRANTING**  
) **PLAINTIFF ACACIA MEDIA**  
) **TECHNOLOGIES**  
) **CORPORATION'S MOTION FOR**  
) **ENTRY OF JUDGMENT OF**  
) **NONINFRINGEMENT AND**  
) **INVALIDITY FOR**  
) **INDEFINITENESS OF US PATENT**  
) **NO. 6,144,702 AND**  
) **CERTIFICATION PURSUANT TO**  
) **FED. R. CIV. P. 54(B)**  
)  
) **[LOCAL RULE 7-11]**  
)  
) **DATE:** February 24, 2006  
) **TIME:** 9:00 A.M.  
) **CTRM:** Hon. James Ware

1           On December 7, 2005, the Honorable James Ware issued the “Further Claim  
2 Construction Order; Order Finding Claims Terms Indefinite And Claims Invalid”  
3 (“Order”). In the Order, the Court found, among other things, the following:

- 4           1. that the claim term “sequence encoder,” which appears in independent  
5           claims 1 and 17 and in dependent claims 18 and 32, of the ‘702 patent, is  
6           indefinite;
- 7           2. that the claim term “identification encoder,” which appears in  
8           independent claims 1, 17, and 27 and in dependent claims 5, 6, 19, and  
9           31 of the ‘702 patent, is indefinite; and
- 10           3. that the claim phrase “transmission system at a first location,” which  
11           appears in independent claims 1, 17, and 27 of the ‘702 patent, means “a  
12           transmission system at one particular location separate from the location  
13           of the reception system.”

14           Although this MDL proceeding involves claims for patent infringement by  
15 Acacia regarding five U.S. Patents, Nos. 5,132,992; 5,253,275; 5,550,863; 6,002720,  
16 and the ‘702 patent, these claim terms – “sequence encoder,” “identification encoder,”  
17 and “transmission system at a first location” – appear only in the claims of the ‘702  
18 patent.

19           The effect of the Court’s finding that the term “sequence encoder” in claims 1,  
20 17, 18, and 32 is indefinite and finding that the term “identification encoder” in claims  
21 1, 17, and 27 is indefinite, if upheld on appeal, would be to render all of the claims of  
22 the ‘702 patent (claims 1-42) indefinite, and therefore invalid, under 35 U.S.C. § 112,  
23 ¶ 2. Further, the effect of the Court’s construction of the phrase “transmission system  
24 at a first location” in claims 1, 17, and 27 of the ‘702 patent as meaning “a  
25 transmission system at one particular location separate from the location of the  
26 reception system,” if upheld on appeal, would be to render all of the claims of the  
27 ‘702 patent (claims 1-42) not infringed by the transmission systems made, used, or  
28 sold by the defendants in this case.

1 THEREFORE, IT IS ADJUDICATED, as a matter of law, that Plaintiff Acacia  
2 shall take nothing as to all defendants listed below on its claim for infringement of its  
3 '702 patent, and that, as to all defendants listed below, the Court shall enter Judgment  
4 of: (1) invalidity of claims 1-42 for indefiniteness on the basis that the Court has  
5 found that the terms "sequence encoder" and "identification encoder" of claims 1-42  
6 of the '702 patent are indefinite; and (2) non-infringement of claims 1-42 on the basis  
7 that the Court has construed the phrase "transmission system at a first location" to  
8 mean "a transmission system at one particular location separate from the location of  
9 the reception system," which would thereby cause claims 1-42 of the '702 to not be  
10 infringed by by defendants. The entry of this Summary Judgment is without prejudice  
11 to Acacia's rights on appeal, without prejudice to Acacia asserting that claims 1-42 of  
12 the '702 patent are valid and infringed by defendants should Acacia prevail in its  
13 appeal, and without prejudice to Acacia's rights to assert any patent other than its  
14 '702 patent against any device or defendant.

15 There is no just cause for delay, and thus the Court directs entry of this  
16 judgment pursuant to Fed. R. Civ. P. Rule 54(b) in the cases listed below:

<u>Separate N.D. Cal. Case Number</u>	<u>Defendant(s)</u>
05-CV-01561 JW	Game Link, Inc.
05-CV-01562 JW	Club Jenna, Inc. and CJ, Inc.
05-CV-01563 JW	1. Cybernet Ventures, Inc. 2. ACMP, LLC 3. Global Media Resources SA
05-CV-01564 JW	Global AVS, Inc., dba DrewNet
05-CV-01565 JW	1. ICS, Inc. 2. AP Net Marketing, Inc.

<u>Separate N.D. Cal. Case Number</u>	<u>Defendant(s)</u>
05-CV-01566 JW	National A-1 Advertising, Inc.
05-CV-01568 JW	New Destiny Internet Group
05-CV-01569 JW	Audio Communications
05-CV-01570 JW	VS Media, Inc.
05-CV-01571 JW	Ademia Multimedia, LLC
05-CV-01572 JW	1. International Web Innovations, Inc.
	2. Offendale Commercial Ltd. BV
05-CV-01573 JW	Adult Entertainment Broadcast Network
05-CV-01574 JW	Cybertrend, Inc.
05-CV-01575 JW	Lightspeedcash
05-CV-01576 JW	1. Adult Revenue Service
	2. Innovative Ideas International
	3. Global Intermedia, Inc.
	4. Askcs.com, Inc.
04-CV-02308 JW	1. Comcast Cable Communications, LLC
	2. Charter Communications, Inc.
	3. The DIRECTV Group, Inc.
	4. Echostar Technologies Corp.
	5. Echostar Satellite LLC

<u>Separate N.D. Cal. Case Number</u>	<u>Defendant(s)</u>
	6. Hospitality Network, Inc. 7. Coxcom, Inc.
04-CV-03789 JW	Mediacom Communications Corporation
05-CV-01399 JW	1. Mid-Continent Media, Inc. 2. US Cable Holdings LP 3. Savage Communications Inc. 4. Loretel Cablevision 5. Arvig Communication System 6. Cannon Valley Communications, Inc. 7. Sjoberg's Cablevision, Inc.
05-CV-01543 JW	1. Armstrong Group 2. Block Communications, Inc, dba Buckeye Cable 3. Wide Open West LLC 4. Massillon Cable TV, Inc.
05-CV-01598 JW	1. Cable America Corporation 2. Cable One, Inc. 3. NPG Cable, Inc.
05-CV-01703 JW	Cebridge Communications

1 SO ORDERED.  
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3 Dated: \_\_\_\_\_  
4

5 James Ware  
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7 Presented by:  
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9 HENNIGAN BENNETT & DORMAN LLP  
10

11 By: /s/ Alan P. Block  
12 Roderick G. Dorman  
13 Alan P. Block  
14 Kevin I. Shenkman  
15

16 Attorney for Plaintiff  
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